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Substantively Consolidated SIPA Liquidation of  
Bernard L. Madoff Investment Securities LLC and  
the Estate of Bernard L. Madoff*

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION  
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT  
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation of  
Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

NICOLETTE WERNICK NOMINEE  
PARTNERSHIP; MARITAL GST EXEMPT  
TRUST F/B/O NICOLETTE WERNICK  
U/ARTICLE III OF THE HAROLD WERNICK  
REVOCABLE TRUST DTD 9/16/1991, in its  
capacity as a Partner of the Nicolette Wernick

Adv. Pro. No. 10-04616 (SMB)

Nominee Partnership; MARITAL GST NON-EXEMPT TRUST F/B/O NICOLETTE WERNICK U/ARTICLE III OF THE HAROLD WERNICK REVOCABLE TRUST DTD 9/16/1991, in its capacity as a Partner of the Nicolette Wernick Nominee Partnership; M. GORDON EHRLICH, in his capacity as managing partner of the Nicolette Wernick Nominee Partnership and as Trustee of the Marital GST Exempt Trust f/b/o Nicolette Wernick u/ Article III of the Harold Wernick Revocable Trust dtd 9/16/1991 and as Trustee of the Marital GST Non-Exempt Trust f/b/o Nicolette Wernick u/ Article III of the Harold Wernick Revocable Trust dtd 9/16/1991; NICOLETTE WERNICK, individually and in her capacity as partner of the Nicolette Wernick Nominee Partnership and as Trustee of the Marital GST Exempt Trust f/b/o Nicolette Wernick u/ Article III of the Harold Wernick Revocable Trust dtd 9/16/1991 and as Trustee of the Marital GST Non-Exempt Trust f/b/o Nicolette Wernick u/ Article III of the Harold Wernick Revocable Trust dtd 9/16/1991; and HOPE WIGMORE, in her capacity as Trustee of the Marital GST Exempt Trust f/b/o Nicolette Wernick u/ Article III of the Harold Wernick Revocable Trust dtd 9/16/1991 and as Trustee of the Marital GST Non-Exempt Trust f/b/o Nicolette Wernick u/ Article III of the Harold Wernick Revocable Trust dtd 9/16/1991,

Defendants.

### **NOTICE OF MEDIATION REFERRAL**

On November 10, 2010, this Court entered the Order (1) Establishing Litigation Case Management Procedures for Avoidance Actions and (2) Amending the February 16, 2010 Protective Order (the “Order”)<sup>1</sup> [Adv. Pro. No. 08-01789 (SMB), Dkt. No. 3141]. Pursuant to the Notice of Applicability filed by Plaintiff Irving H. Picard (the “Trustee”), as trustee for the liquidation of the business of Bernard L. Madoff Investment Securities LLC (“BLMIS”) under

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<sup>1</sup> All terms not defined herein shall be given the meaning ascribed to them in the Order.

the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.* (“SIPA”), and the substantively consolidated estate of Bernard L. Madoff individually (“Madoff”), in this Adversary Proceeding on December 01, 2010 [Dkt. No. 2], the Order and the avoidance procedures contained therein (the “Avoidance Procedures”) are applicable to the instant matter.

On April 17, 2014, defendant Nicolette Wernick (“Wernick”) filed a motion to dismiss this adversary proceeding [Dkt. No. 54] pursuant to Federal Rule of Civil Procedure 12(b)(6), made applicable by Bankruptcy Rule 7012 (a “Rule 12(b)(6) Motion”). Also on April 17, 2014, defendant M. Gordon Ehrlich (“Ehrlich”) filed a Joinder to Defendant’s Motion to Dismiss. [Dkt. 55]. The remaining defendants have not filed a response to the Trustee’s Complaint.

Pursuant to the Avoidance Procedures, upon the filing of a Rule 12(b)(6) Motion, the issues raised in such motion, together with the issues raised in the Complaint, are immediately referred to mediation. Avoidance Procedures, ¶2D.

Pursuant to the Avoidance Procedures, within 14 calendar days after the filing of this Notice of Mediation Referral, the Trustee, Wernick, and Ehrlich (the “Parties”) shall choose a mediator in accordance with the Mediation Order. If the Parties are unable to agree on a mediator, the Court shall appoint one in accordance with the Mediation Order. Avoidance Procedures, ¶5C.

Dated: May 28, 2014

Of Counsel:

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